

## **REMARKS**

In view of the above amendments and the following remarks, reconsideration and further examination are respectfully requested.

### **I. Telephone Interview**

The Applicants would like to thank Examiner Nilforoush for granting and conducting a telephone interview on May 10, 2010.

Initially, note that during the interview the 35 U.S.C. § 101 and § 112 rejections of claims 61, 64 and 70 were discussed. During the interview, the Examiner kindly agreed that the 35 U.S.C. § 101 and § 112 rejections of claim 70 were overcome by the response filed on April 12, 2010. Regarding claims 61 and 64 the Examiner suggested amending independent claim 61 in a manner so as to prevent the various “units” (e.g., holding unit, sending unit, etc.) from being interpreted as software alone.

Specifically, the Examiner suggested amending claim 61 to recite that the terminal device includes a memory that stores instructions to be executed by the processor and that the instructions cause the processor to operate as the “holding unit,” “sending unit,” and “response receiving unit,” etc.

Regarding the prior art rejections, the Examiner noted that it was difficult to “tie” the limitations of the last three paragraphs of the independent claims with the other limitations of the claims. In view of the above, the Examiner requested that the Applicants amend the independent claims to more clearly integrate the features of the last three paragraphs with the other limitations of the claims. For example, the Examiner suggested amending the “sending,” “generating,”

“updating,” and “receiving,” of claim 70 to incorporate the limitations included in the “performing of the control.”

The Examiner agreed that if such clarifying amendments are made to the independent claims, then the Bortvedt reference would most likely be overcome. Regarding the Bortvedt reference, during the interview, the Examiner agreed that Bortvedt teaches that the interval message, which is sent between other transaction messages, includes a commit flag, such that the commit flag is transmitted up to several times before a last transaction message.

In view of the above, the Examiner kindly agreed to accept a Supplemental Amendment including the amended claims. The Examiner requested that the Supplemental Amendment be filed before the end of May, 2010.

## **II. Amendments to the Claims**

In view of the above-mentioned telephone interview, independent claims 61, 70 and 73 and dependent claim 64 have been amended, as suggested by the Examiner, to clarify features of the invention recited therein.

## **III. 35 U.S.C. §101 Rejection**

In the final Office Action dated November 12, 2009, claim 70 was rejected under 35 U.S.C. § 101 for failure to recite statutory subject matter.

However, in view of the previous amendments to claim 70, and as acknowledged by the Examiner during the telephone interview, it is submitted that this rejection has been overcome.

#### **IV. 35 U.S.C. § 112, Second Paragraph Rejections**

Claims 61 and 64 were rejected under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

By this Supplemental Amendment, and as suggested by the Examiner during the interview, claims 61 and 64 have been amended to recite that the terminal device includes “a memory storing instructions to be executed by said processor to cause said processor to operate as: a holding unit storing the transaction flag in said memory ... .”

As discussed above and as agreed to by the Examiner, such an amendment would overcome the 35 U.S.C. § 112, second paragraph rejection of claims 61 and 64. As a result, withdrawal of this rejection is respectfully requested.

Furthermore, claim 70 was rejected under 35 U.S.C. § 112, second paragraph, for allegedly omitting steps that are essential. However, as mentioned above, during the interview the Examiner kindly agreed that this rejection of claim 70 has been overcome by the previously filed amendment.

Therefore, withdrawal of this rejection is respectfully requested.

#### **V. 35 U.S.C. § 102 and § 103 Rejections**

Claims 61 and 64 were rejected under 35 U.S.C. § 102(b) as being anticipated by Hurvig (U.S. 5,678,007). Further, claim 73 was rejected under 35 U.S.C. § 102(b) as being anticipated by Moore (U.S. 7,732,266).

However, in view of the amendments to claims 61 and 64 and the remarks regarding independent claims 61 and 73 submitted in the response filed on February 12, 2010 and in view of the comments included on the continuation sheet of the Advisory Action mailed on March 11, 2010 (i.e., the comments on the continuation sheet of the Advisory Action do not address the Applicants' position regarding the Hurvig and Moore references), it appears that these 35 U.S.C. § 102 rejections have been overcome.

Claims 61, 64, 70 and 73 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Hurvig and Bortvedt (U.S. 5,799,305). This rejection is believed clearly inapplicable to amended independent claims 61, 70 and 73 for the following reasons.

Amended independent claim 61 recites a terminal device including a processor and a sending unit sending a plurality of request messages including a transaction flag, an initial request message and an intermediary request message, the plurality of request messages being sent to the server device when the processor processes successive processes of one transaction process (of a plurality of transaction processes), and the initial request message being sent to the server device when the processor processes a first process of the successive processes of the one transaction process. Claim 61 recites that the terminal device also includes an inverting unit generating the transaction flag with a value that is an inverse of a value of the transaction flag included in a most recently sent request message, of the plurality of request messages, sent by the sending unit, includes an updating unit updating the transaction flag stored in a memory to the transaction flag generated by the inverting unit, and includes a response receiving unit receiving a plurality of response messages from the server device, the plurality of response messages including an intermediary response message and a last response message, the plurality of

response messages being received from the server device when the processor processes the successive processes of the one transaction process.

Further, claim 61 recites that the response receiving unit receives the intermediary response message sent from the server device (i) without an occurrence of a communication error, and (ii) in response to the most recently sent request message sent by the sending unit. Claim 61 also recites that when the response receiving unit receives the intermediary response message, the sending unit sends the intermediary request message in a process of the successive processes following the first process of the successive processes of the one transaction process **such that**, the sent intermediary request message includes the transaction flag generated by the inverting unit, **such that** the sent intermediary request message is sent without sending the commit message, and **such that** when the response receiving unit receives the intermediary response message, the transaction flag of the intermediary request message is used as a substitute for the commit message being sent in response to receive the intermediary response message. Finally, claim 61 recites that the sending unit sends the commit message finalizing the completion of the one transaction process only in a last process of the successive processes of the one transaction process and only in response to the response receiving unit receiving the last response message.

The Applicants respectfully submit that Hurvig and Bortvedt, or any combination thereof, fails to disclose or suggest the above-mentioned distinguishing features required by amended independent claim 61, for the following reasons.

As agreed upon during the above-mentioned telephone interview Bortvedt, which was relied upon for teaching the limitations related to the transaction flag, teaches that (i) four flags are included in an interval message, (ii) the interval message notifies all the interval participants

of the interval, (iii) the interval message is transmitted separately from the request message, and (iv) there is no inversion of the four flags.

Thus, in view of the above, it is clear that Bortvedt teaches that the interval message, notifying participants of the interval, is transmitted separately from the request message and includes four flags, but fails to disclose or suggest that, that the response receiving unit receives the intermediary response message sent from the server device (i) without an occurrence of a communication error, and (ii) in response to the most recently sent request message sent by the sending unit, wherein, when the response receiving unit receives the intermediary response message, the sending unit sends the intermediary request message in a process of the successive processes following the first process of the successive processes of the one transaction process **such that**, the sent intermediary request message includes the transaction flag generated by the inverting unit, **such that** the sent intermediary request message is sent without sending the commit message, and **such that** when the response receiving unit receives the intermediary response message, the transaction flag of the intermediary request message is used as a substitute for the commit message being sent in response to receive the intermediary response message, as required by claim 61.

Furthermore, regarding the position set forth in the second paragraph of the continuation sheet of the Advisory Action, the Applicants note that Bortvedt teaches that four flags are included in an interval message, wherein the interval message is different from a request message (i.e., the interval message is generated separately from the transaction at a certain period, such as one-hundred milliseconds), and the flags of the interval message indicate whether the message includes any transactions to commit (see col. 15, lines 5-13; and col. 8, lines 51-59).

Thus, in view of the above, it is clear that Bortvedt teaches that the interval message (and transaction flag) are transmitted separately from the request message, but fails to disclose or suggest that the transaction flag included in the intermediary request message is used as a substitute for the commit message being sent in response to receiving the intermediary response message, wherein the sending unit sends the commit message finalizing the completion of the one transaction process only in a last process of the successive processes of the one transaction process and only in response to the response receiving unit receiving the last response message, as required by claim 61.

In other words, during the interview the Examiner agreed that Bortvedt teaches that the interval message, which is sent between other transaction messages, includes a commit flag, such that the commit flag is transmitted up to several times before a last transaction message, whereas amended claim 61 recites that, when the response receiving unit receives the intermediary response message, the transaction flag of the intermediary request message is used as a substitute for the commit message being sent in response to receive the intermediary response message, wherein the sending unit sends the commit message finalizing the completion of the one transaction process only in a last process of the successive processes of the one transaction process and only in response to the response receiving unit receiving the last response message (i.e., the commit message is only transmitted once during the successive processes of the one transaction process), as required by claim 61.

Therefore, because of the above-mentioned distinctions it is believed clear that claim 61 and claim 64 that depends therefrom would not have been obvious or result from any combination of Hurvig and Bortvedt.

Amended independent claims 70 and 73 are directed to a method and a program, respectively and each recites features that correspond to the above-mentioned distinguishing features of independent claim 61. Thus, for the same reasons discussed above, it is respectfully submitted that independent claims 70 and 73 are allowable over the combination of Hurvig and Bortvedt.

Furthermore, there is no disclosure or suggestion in Hurvig, Moore and/or Bortvedt or elsewhere in the prior art of record which would have caused a person of ordinary skill in the art to modify Hurvig, Moore and/or Bortvedt to obtain the invention of independent claims 61, 70 and 73. Accordingly, it is respectfully submitted that independent claims 61, 70 and 73 and claim 64 that depends therefrom are clearly allowable over the prior art of record.

## **VI. Conclusion**

In view of the above amendments and remarks, it is submitted that the present application is now in condition for allowance and an early notification thereof is earnestly requested. The Examiner is invited to contact the undersigned by telephone to resolve any remaining issues.

Respectfully submitted,

Kouji MIURA et al.

/Andrew L. Dunlap/

By 2010.05.25 16:37:29 -04'00'

Andrew L. Dunlap  
Registration No. 60,554  
Attorney for Applicants

ALD/led  
Washington, D.C. 20005-1503  
Telephone (202) 721-8200  
Facsimile (202) 721-8250  
May 25, 2010